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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/614,842	07/08/2003	John T. Hawkins JR.	L-0170.41(Con)	9143

7590 07/13/2004

LAW OFFICES OF CHRISTOPHER L. MAKAY
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EXAMINER

ALI, MOHAMMAD M

ART UNIT	PAPER NUMBER
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3744

DATE MAILED: 07/13/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/614,842

Applicant(s)

HAWKINS ET AL.

Examiner

Mohammad M Ali

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 08 June 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 15-28 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 15-28 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 15-28 are rejected under 35 U.S.C. 103(a) as being unpatentable over Chesnut (4,823,556). Chesnut discloses an electronic ice bank control method for regulating the growth of frozen cooling bank comprising monitoring probes 5-8 to determine the presence of ice around some specific probes, starting a cooling unit 100/101 if the probes indicate the frozen cooling bank does not cover probes 7-8 (See column 6, lines 37-45) and stopping the cooling unit 100/101 if the probes 7-8 indicate the frozen cooling bank covers the probes 7-8 (see column 6, lines 65-68. Also See Fig. 1. Chesnut also discloses about minimizing chances of inaccurate control (See abstract), electronic control unit 36. Chesnut discloses the invention substantially as claimed as stated above. However, Chesnut does not disclose selected freeze point on the entire sensor unit. The Examiner considers the probes as the sensor units and cover points of the probes as the selected freeze point. Alternatively, choosing a specific freeze point and sensor unit is an obvious choice of the individual skilled in the art since there is no criticality or unexpected result from it.

Response to Arguments

Applicant's arguments filed 06/08/04 have been fully considered but they are not persuasive. The Applicant argued, "The probes 5-8 are therefore only a single sensor unit that provides an indication of ice bank thickness at one location. Applicant accordingly submits

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Chestnut does not anticipate claims ----" The Examiner disagrees. The claimed invention does not indicate to determine the size and shape of the frozen cooling bank at different locations. Therefore, the rejection is valid.

Any inquiry concerning this communication or earlier from the examiner should be directed to Mohammad M. Ali, whose telephone number is (703) 308-5032. The examiner can be reached from 6:10am to 4:50pm from Monday to Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Denise Esquivel, can be reached at (703) 308-2597. The fax number for the organization where this application or proceeding is assigned is 703-308-7764 for regular communications and after-final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-0861.


Mohammad M. Ali

July 9, 2004